

PUBLIC LAW BOARD NO. 4823

PARTIES) THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO) versus
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

"Carrier's decision to remove former Texas Division Trackman S. M. Salgado from service, effective August 6, 1990, was unjust.

Accordingly, Carrier should now be required to reinstate the claimant to service with his seniority rights unimpaired and compensate him for all wages lost from August 6, 1990 (11-680-120-880/190-13A1-9025)"

FINDINGS:

This Public Law Board No. 4823 finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

On June 28, 1990, Carrier's Division Manager wrote the claimant, notifying him that effective immediately his seniority and employment were terminated due to his being absent from duty without proper authority or approved leave of absence "since June 18, 1990 through June 28, 1990", and that he could, if he desired, request a formal investigation within 20 days from June 28, 1990. The claimant requested a formal investigation, which was held on August 3, 1990. Claimant, however, did not attend the investigation. Following the investigation, Claimant was removed from service for being absent without proper authority or approved leave of absence June 18, 1990, through June 28, 1990, in violation of Rules B and 1004, Safety and General Rules for All Employees.

The claimant's failure to attend the investigation, even if his absence was due to incarceration, is tantamount to a plea of no defense. The Board finds that he was properly found to be in violation of the rules cited in the notice of investigation, and his removal from service was

entirely appropriate for his responsibility in connection therewith.

AWARD: Claim denied.

Michael Garmon
G. Michael Garmon, Chairman

C. J. Jones
Employee Member

L. Z. Pope
Carrier Member

Dated at Chicago, IL:

April 22, 1991